

**FLATHEAD COUNTY PLANNING BOARD  
MINUTES OF THE MEETING  
DECEMBER 14, 2011**

**CALL TO ORDER**

A meeting of the Flathead County Planning Board was called to order at approximately 6:00 p.m. Board members present were Marie Hickey-AuClaire, Gordon Cross, Charles Lapp, Gene Shellerud, Jim Heim, Jeff Larsen, Frank DeKort and Bob Keenan. Marc Pitman had an excused absence. BJ Grieve represented the Flathead County Planning & Zoning Office.

There was one person in the audience.

**APPROVAL OF MINUTES**

DeKort made a motion, seconded by Shellerud to approve the November 9, 2011 meeting minutes.

On a roll call vote the motion passed unanimously.

**PUBLIC COMMENT**  
*(not related to agenda items)*

None.

**COMMITTEE REPORTS**

Committee 'B' had a meeting scheduled for earlier in the day that was cancelled. Grieve stated that there would be several new board members after the first of the year and it would be best to wait and see what happens with committees in general after the new year begins. The issue of moving forward with various projects is kind of subjective at this point and staff didn't want to chew up folk's time by holding a meeting earlier in the day.

Cross commented that due to the growth policy update wrapping up the whole board needed to hear from the planning director on certain issues so they could get some direction.

Grieve agreed.

Shellerud asked if there was a committee 'B' meeting scheduled for January.

Grieve said it would be an agenda item in the new year to discuss the issue of whether or not committee's were needed and if so, then decide which members of the board would be on each committee.

**OLD BUSINESS**

Grieve spoke about the new board appointees and board/committee member training dates. He gave a brief summary of what would be covered in the training sessions and stated they were more land use related than the training session offered by the county attorney's office sometime next year. He encouraged each of the board members to attend one of the training sessions next week and reiterated the times for each session.

**NEW BUSINESS**

Grieve gave a brief history of the interlocal agreement between the city of Whitefish and the county, the options of taking back the jurisdiction and spoke about where the commissioners had indicated they would like to go moving forward. He stated that what comes next is really a lot of guidance from the planning board. Staff needs discussion and leadership from the board and commission together on the issue of prioritizing neighborhood plans. He walked the board through where everything stands at this point and showed a map of the proposed county zoning within the interlocal agreement area, also known as the doughnut.

The first option for administrative procedure and process in order to acquire the jurisdiction would be to adopt permanent zoning which the board is well aware of in terms of process. That process at its quickest could take up to nine months but once it's done it's done. The downside to that is permanent zoning has to be done in conformance with a plan which the county does have in place for the area outside of Whitefish city limits; it was adopted in 1996. The plan area for the Whitefish City-County Master Plan is bigger than the interlocal agreement area and a lot has changed within the plan area. It would be really tough to do a permanent zoning district based on the 1996 plan and keep what is currently in place in some of the areas around the city limits. Around 2006-2007, the city of Whitefish created a Whitefish growth policy which included all the areas in the interlocal agreement and even bigger. That's the plan the city is basing their zoning on.

The other option would be to go in with an interim zoning district for the area which is only good for one year with only one-year extension. The downside being that it would only be good for two years. The upside is that it could be adopted very quickly. It would require preparation of a map, publication of a notice of public hearing, which contains the boundaries and description of the zoning and the commissioners would hold a public hearing and adopt a resolution for the interim zoning right after the public hearing. Once the interim zoning is in place the

county would have the jurisdiction and be able to administer subdivision of land, lakeshore, and floodplain.

Another scenario would be to follow an interim zone, which is only in place for two years, with permanent zoning; but you have to use the plan that's in place. Or you could use the interim time to update the plan and then adopt a new permanent zoning based on the new plan. The downside to that scenario is that you would have to hustle because updating a plan and following it with permanent zoning is quite a process and you would have to move quickly. This scenario stands the highest likelihood of creating something around Whitefish which is respectful towards what is in place now and what has happened over the last 15 years.

Shellerud asked what the timeframe would be if they went straight to the permanent zoning district now.

Grieve said it would be a long process because there are a lot more public hearing requirements for permanent zoning districts, so the fastest it could be done would be maybe seven to eight months. The commission was interested in acquiring jurisdiction faster than that. With the passage of the referendum, it would leave the whole question in flux. That would mean for the next seven or eight months nobody would know who has jurisdiction. Another issue would be that if you started permanent zoning it would have to comply with the older plan. At this time, staff was able to create an interim zoning district which respected what was on the ground and gave consideration to the plan but because it would be an interim zone it wouldn't have to comply with the plan. This plan is the last plan the county agreed to adopt. Whitefish has a new plan done in 2007.

The commission chose to move forward with holding a public hearing on the interim zoning which is called the Rural Whitefish Interim Zoning District. The public hearing will be January 12, 2012. After the public hearing the commission would pass a resolution and zoning would go into effect immediately. There is no protest period provision or referendum.

Whitefish does not agree with conceptually what is going on. They don't agree that both the 2005 and 2010 interlocal agreements are gone, that's the county's position. Since we don't have an interlocal agreement, the county's position is that we have to put something in place to plan and zone that area or the city can continue to do it under statute. Since they don't agree, Whitefish can file a lawsuit that can contain an injunction to

stop what's going on until it can be figured out by the courts. If that happens we would be back to February 2008. There are all kinds of legal opinions floating around about this issue and there are no clear answers at this point.

Larsen asked if staff had looked at every single parcel within that area and found the closest county zoning.

Grieve took the board on a tour of the map, showing a close-up of the parcels, and spoke about the current zoning within the interlocal agreement area. He stated that Whitefish hadn't re-zoned some of the areas the county had already zoned so those were not included in the legal notice for the public hearing. Staff compared Whitefish zoning to county zoning and is proposing the closest county zoning to what is on the ground. A lot of this had been done in 2008 but staff had to go in and spot check everything to make sure annexations were accounted for as well as zone changes that had occurred between 2008 to present. Staff also updated parcel lines that included subdivisions and things like that.

The scenario the commissioners chose to go with was to put the interim zoning in place and then follow it up with the planning process to update the 1996 Whitefish City-County Master Plan. The process of updating plans in the growth policy states that prioritization of updating plans will be done by the county commissioners and the planning board. Grieve asked if the board was willing to approve this one as being the next priority and getting to work on it. He commented that he didn't think the board wanted to keep going with bi-weekly workshops as they've been doing for updating the growth policy. He suggested a possible adhoc committee for the purpose of updating the plan, the membership of it would be totally political, that would report to the planning board and when the plan was updated and adopted the committee would be disbanded. He thought it might take about 15 months to update the plan and then if it were to be implemented and permanent zoning put in place you were looking at another 7-8 months. The final resolution for permanent zoning would have to be passed before the interim zoning expires.

The purpose of the interim zone is speed. We don't have to wait months while nobody has any idea what's going on. Once interim zoning is adopted, a property owner within that area that wants to develop would no longer be subject to any of the ordinances passed by Whitefish but rather county zoning.

The board and staff discussed at length the current zoning, the proposed zoning, possible membership of an adhoc committee to update the plan and possible updates that would need to be made to the plan.

Grieve said he was hopeful that a group of citizens, put together by the commissioners, could act as a local sounding board. Things could filter up to the planning board and there would be communication between the committee and the planning board to make sure the board would have the local perspective.

The board agreed they would rather do that than have workshops every other week as they've been doing for the growth policy update.

**MOTION TO  
PRIORITIZE  
UPDATING THE  
WHITEFISH  
CITY-COUNTY  
MASTER PLAN**

Lapp made a motion seconded by Larsen to prioritize updating the 1996 Whitefish City-County Master Plan.

**BOARD  
DISCUSSION**

Grieve spoke about a having a process to inform people that the county will be updating the plan and inviting them to be a part of it by becoming involved through an adhoc committee if that's the route the commission decides to take.

Larsen stated he would like to see the process and make sure everybody has a chance to participate, meetings will be open to the public and we don't have any of the problems we had in the past. He wasn't worried about who got appointed to a committee he would just like to see the process.

Grieve stated that staff could come up with a scope of work that would include how many meetings were going to be held, how we would advertise them and how we would inform people they have an opportunity to be a part of the committee.

DeKort said he would like to have more regular updates for the board so they don't just see the final product.

The board agreed and stated they would like staff to run things by the board more often so there could be some cross checking done.

**ROLL CALL**

On a roll call vote the motion passed unanimously.

**BOARD DISCUSSION**

Shellerud asked if this project would interfere with any other plans that staff had previously indicated they would be working on.

Grieve said the commission had expressed an understanding that we are now acquiring a significantly labor and resource intensive jurisdiction. He had thought, and indicated to the commissioners, that we might need to hire more staff because of this; but at this point he wants to take a 'wait and see' attitude towards that issue. If, at some point in the future it's obvious we are getting swamped as a result of Whitefish, he might consider hiring someone to help with such things as enforcement and routine permitting.

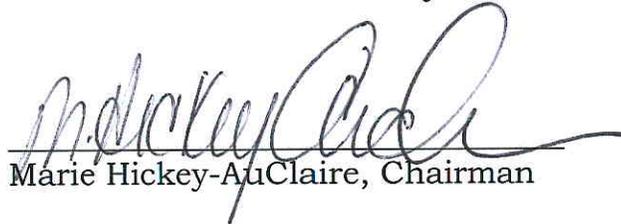
Cross asked if a person could get a zone change in an interim zone.

Grieve said a person could apply for a zone change but it would not be wise because of the timing involved with that process and also because interim zoning is only in effect for two years and then goes away. It would be better to get involved in the process.

The board and staff discussed other issues that would need to be figured out as well.

**ADJOURNMENT**

The meeting was adjourned at approximately 7:10 pm. on a motion by Cross. The next meeting will be held at 6:00 p.m. on January 11, 2012.

  
Marie Hickey-AuClaire, Chairman

  
Mary Fisher, Recording Secretary

APPROVED AS SUBMITTED/CORRECTED:   1   /   11   / 12